

INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

[As Amended Through P.L. 110–96, Enacted October 16, 2007]

[Partial text of Public Law 95–223 [H.R. 7738], 91 Stat. 1625, approved December 28, 1977, as amended by Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988; H.R. 4848], 102 Stat. 1107, approved August 23, 1988; Public Law 102–393 [Treasury, Postal Service, and General Government Appropriations Act, 1993; H.R. 5488], 106 Stat. 1729, approved October 6, 1992; Public Law 102–396 [Department of Defense Appropriations Act, 1993; H.R. 5504], 106 Stat. 1876, approved October 6, 1992; by Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2725, approved September 23, 1996; and by Public Law 107–56 [Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001; H.R. 3162], 115 Stat. 272, approved October 26, 2001]

AN ACT With respect to the powers of the President in time of war or national emergency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

NOTE.—Except for the provisions reproduced below, this Act consisted of amendments to the Trading With the Enemy Act (Public Law 65–91; 40 Stat. 411) and the Export Administration Act of 1969 (Public Law 96–72; 93 Stat. 503).

TITLE I—AMENDMENTS TO THE TRADING WITH THE ENEMY ACT

REMOVAL OF NATIONAL EMERGENCY POWERS UNDER THE TRADING WITH THE ENEMY ACT

SEC. 101. (a) * * *

(b)¹ Notwithstanding the amendment made by subsection (a), the authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, may continue to be exercised with respect to such country, except that, unless ex-

¹ 50 U.S.C. app. 5 note.

tended, the exercise of such authorities shall terminate (subject to the savings provisions of the second sentence of section 101(a) of the National Emergencies Act) at the end of the two-year period beginning on the date of enactment of the National Emergencies Act. The President may extend the exercise of such authorities for one-year periods upon a determination of each such extension that the exercise of such authorities with respect to such country for another year is in the national interest of the United States.²

(c) The termination and extension provisions of subsection (b) of this section supersede the provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions.

(d) Paragraph (1) of section 502(a) of the National Emergencies Act is repealed.

WARTIME AUTHORITIES

SEC. 102. * * *
SEC. 103. * * *

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TITLE II—INTERNATIONAL EMERGENCY ECONOMIC POWERS

SHORT TITLE

SEC. 201.³ This title may be cited as the “International Emergency Economic Powers Act”.

SITUATIONS IN WHICH AUTHORITIES MAY BE EXERCISED

SEC. 202.⁴ (a) Any authority granted to the President by section 203 may be exercised to deal with any unusual and extraor-

² Each year since 1977, the President has utilized authority granted his office pursuant to the National Emergencies Act to extend certain authorities being exercised prior to July 1, 1977, under sec. 5(b) of the Trading with the Enemy Act. The most recent action, Presidential Determination No. 2000-29 of September 12, 2000 extends until September 14, 2001, the exercise of those authorities with respect to countries affected by the Foreign Assets Control Regulations (31 CFR Part 500), the Transaction Control Regulations (31 CFR Part 505), and the Cuban Assets Control Regulations (31 CFR Part 515).

Previous extensions have been issued as a memorandum of September 8, 1978 (43 F.R. 40449); memorandum of September 12, 1979 (44 F.R. 553153); memorandum of September 8, 1980 (45 F.R. 59549); memorandum of September 10, 1981 (46 F.R. 45321); memorandum of September 8, 1982 (47 F.R. 39797); memorandum of September 7, 1983 (48 F.R. 40695); memorandum of September 11, 1984 (49 F.R. 35927); memorandum of September 5, 1985 (5 F.R. 36563); memorandum of August 20, 1986 (51 F.R. 30201); memorandum of August 27, 1987 (52 F.R. 33397); Presidential Determination No. 88-22 of September 8, 1988 (53 F.R. 35289); Presidential Determination No. 89-25 of August 28, 1989 (54 F.R. 37089); Presidential Determination No. 90-38 of September 5, 1990 (55 F.R. 37309); Presidential Determination No. 91-52 of September 13, 1991 (56 F.R. 48415); Presidential Determination No. 92-45 of August 28, 1992 (57 F.R. 43125); Presidential Determination No. 93-38 of September 13, 1993 (58 F.R. 51209); Presidential Determination No. 94-46 of September 8, 1994 (59 F.R. 47229); Presidential Determination No. 95-41 of September 8, 1995 (60 F.R. 47659); Presidential Determination No. 96-43 of August 27, 1996 (61 F.R. 46529); Presidential Determination 97-32 of September 12, 1997 (62 F.R. 48729); Presidential Determination No. 98-35 of September 11, 1998 (63 F.R. 50455); Presidential Determination No. 99-36 of September 10, 1999 (64 F.R. 51885).

³ 50 U.S.C. 1701 note.

⁴ 50 U.S.C. 1701.

See also: the ILSA Extension Act of 2001 (Public Law 107-24; 115 Stat. 199); sec. 501 of Public Law 106-501 (114 Stat. 3050), pertaining to Sudan; Iran Nonproliferation Act of 2000 (Public Law 106-178; 114 Stat. 38); sec. 599 of the Foreign Operations, Export Financing, and Related

dinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.

(b) The authorities granted to the President by section 203 may only be exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared for purposes of this title and may not be exercised for any other purpose. Any exercise of such authorities to deal with any new threat shall be based on a new declaration of national emergency which must be with respect to such threat.

GRANTS OF AUTHORITIES

SEC. 203.⁵ (a)(1) At the times and to the extent specified in section 202, the President may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit—

(i) any transactions in foreign exchange,

(ii) transfer of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof,

(iii) the importing or exporting of currency or securities,⁶

by any person, or with respect to any property, subject to the jurisdiction of the United States;⁶

(B) investigate, block during the pendency of an investigation,⁷ regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States; and⁸

(C)⁹ when the United States is engaged in armed hostilities or has been attacked by a foreign country or foreign na-

Programs Appropriations Act, 2000 (Public Law 106-113; 113 Stat. 1535, 1501A-127), pertaining to Serbia; sec. 1237 of the National Defense Authorization Act, Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2160), pertaining to China; title XVI of the National Defense Authorization Act for Fiscal Year 1993, Iran-Iraq Arms Non-Proliferation Act of 1992, (Public Law 102-484; 106 Stat. 2571); sec. 1458 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1697), pertaining to Iraq and Iran; Iraq Sanctions Act of 1990 (secs. 586-586J of Public Law 101-513, 104 Stat. 2047); and Iran and Libya Sanctions Act (Public Law 104-172; 110 Stat. 1541).

⁵ 50 U.S.C. 1702.

⁶ Sec. 106(1)(A) of the USA PATRIOT Act (Public Law 107-56; 115 Stat. 277) struck out “; and” at the end of clause (ii), inserted in lieu thereof a comma and “by any person, or with respect to any property, subject to the jurisdiction of the United States;”.

⁷ Sec. 106(1)(B)(i) of the USA PATRIOT Act (Public Law 107-56; 115 Stat. 277) inserted “, block during the pendency of an investigation” after “investigate”.

⁸ Sec. 106(1)(B)(ii) of the USA PATRIOT Act (Public Law 107-56; 115 Stat. 277) struck out “interest;” and inserted in lieu thereof “interest by any person, or with respect to any property, subject to the jurisdiction of the United States; and”. Following this phrase, sec. 106(1)(C) of that Act struck out “by any person, or with respect to any property, subject to the jurisdiction of the United States”.

⁹ Sec. 106(1)(D) of the USA PATRIOT Act (Public Law 107-56; 115 Stat. 277) added subpara. (C).

tionals, confiscate any property, subject to the jurisdiction of the United States, of any foreign person, foreign organization, or foreign country that he determines has planned, authorized, aided, or engaged in such hostilities or attacks against the United States; and all right, title, and interest in any property so confiscated shall vest, when, as, and upon the terms directed by the President, in such agency or person as the President may designate from time to time, and upon such terms and conditions as the President may prescribe, such interest, or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes.

(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in paragraph (1) either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. In any case in which a report by a person could be required under this paragraph, the President may require the production of any books of account, records, contracts, letters, memorandums, or other papers, in the custody or control of such person.

(3) Compliance with any regulation, instruction, or direction issued under this title shall to the extent thereof be a full acquittance and discharge for all purposes of the obligations of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this title, or any regulation, instruction, or direction issued under this title.

(b) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly—

(1) any postal, telegraphic, telephonic, or other personal communication, which does not involve a transfer of anything of value;¹⁰

(2) donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his ability to deal with any national emergency, declared under section 202 of this title, (B) or in response to coercion against the proposed recipient or donor, or

¹⁰Sec. 203(b) was amended by sec. 2502(b)(1) of Public Law 100-418 (102 Stat. 1371) which struck out “or” in par. (1); struck out the period and inserted “; or” in par. (2) and added new par. (3). Sec. 2502(b)(2) of that Act also stated that:

“(2) The amendments made by paragraph (1) apply to actions taken by the President under section 203 of the International Emergency Economic Powers Act before the date of the enactment of this Act which are in effect on such date of enactment, and to actions taken under such section on or after such date of enactment.”.

(C) would endanger Armed Forces of the United States which are engaged in hostilities or are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances.

(3)¹¹ the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 5 of the Export Administration Act of 1979, or under section 6 of such Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code; or

(4)¹¹ any transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

(c)¹² CLASSIFIED INFORMATION.—In any judicial review of a determination made under this section, if the determination was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act) such information may be submitted to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review.

CONSULTATION AND REPORTS

SEC. 204.¹³ (a) The President, in every possible instance, shall consult with the Congress before exercising any of the authorities granted by this title and shall consult regularly with the Congress so long as such authorities are exercised.

¹¹ Sec. 525(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 474) struck out para. (3) and inserted new paras. (3) and (4). Paragraph (3) formerly read as follows:

“(3) the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 or with respect to which no acts are prohibited by chapter 37 of title 18, United States Code.”.

Sec. 525(c)(2) and (3) of that Act further provided the following:

“(2) The amendments made by paragraph (1) to section 203(b)(3) of the International Emergency Economic Powers Act apply to actions taken by the President under section 203 of such Act before the date of enactment of this Act which are in effect on such date and to actions taken under such section on or after such date.

“(3) Section 203(b)(4) of the International Emergency Economic Powers Act (as added by paragraph (1)) shall not apply to restrictions on the transactions and activities described in section 203(b)(4) in force on the date of enactment of this Act, with respect to countries embargoed under the International Emergency Economic Powers Act on the date of enactment of this Act.”.

¹² Sec. 106(2) of the USA PATRIOT Act (Public Law 107-56; 115 Stat. 278) added subsec. (c).

¹³ 50 U.S.C. 1703.

(b) Whenever the President exercises any of the authorities granted by this title, he shall immediately transmit to the Congress a report specifying—

(1) the circumstances which necessitate such exercise of authority;

(2) why the President believes those circumstances constitute an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States;

(3) the authorities to be exercised and the actions to be taken in the exercise of those authorities to deal with those circumstances;

(4) why the President believes such actions are necessary to deal with those circumstances; and

(5) any foreign countries with respect to which such actions are to be taken and why such actions are to be taken with respect to those countries.

(c) At least once during each succeeding six-month period after transmitting a report pursuant to subsection (b) with respect to an exercise of authorities under this title, the President shall report to the Congress with respect to the actions taken, since the last such report, in the exercise of such authorities, and with respect to any changes which have occurred concerning any information previously furnished pursuant to paragraphs (1) through (5) of subsection (b).

(d) The requirements of this section are supplemental to those contained in title IV of the National Emergencies Act.

AUTHORITY TO ISSUE REGULATIONS

SEC. 205.¹⁴ The President may issue such regulations, including regulations prescribing definitions, as may be necessary for the exercise of the authorities granted by this title.

SEC. 206. PENALTIES.¹⁵

(a) UNLAWFUL ACTS.—It shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation, or prohibition issued under this title.

(b) CIVIL PENALTY.—A civil penalty may be imposed on any person who commits an unlawful act described in subsection (a) in an amount not to exceed the greater of—

(1) \$250,000; or

(2) an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(c) CRIMINAL PENALTY.—A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, an unlawful act described in subsection (a) shall, upon conviction, be fined not more than \$1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

¹⁴ 50 U.S.C. 1704.

¹⁵ 50 U.S.C. 1705.

SAVINGS PROVISION

SEC. 207.¹⁶ (a)(1) Except as provided in subsection (b), notwithstanding the termination pursuant to the National Emergencies Act of a national emergency declared for purposes of this title, any authorities granted by this title, which are exercised on the date of such termination on the basis of such national emergency to prohibit transactions involving property in which a foreign country or national thereof has any interest, may continue to be so exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country of its nationals.

(2) Notwithstanding the termination of the authorities described in section 101(b) of this Act, any such authorities, which are exercised with respect to a country on the date of such termination to prohibit transactions involving any property in which such country or any national thereof has any interest, may continue to be exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(b) The authorities described in subsection (a)(1) may not continue to be exercised under this section if the national emergency is terminated by the Congress by concurrent resolution pursuant to section 202 of the National Emergencies Act and if the Congress specifies in such concurrent resolution that such authorities may not continue to be exercised under this section.

(c)(1) The provisions of this section are supplemental to the savings provisions of paragraphs (1), (2), and (3) of section 101(a) and of paragraphs (A), (B), and (C) of section 202(a) of the National Emergencies Act.

(2) The provisions of this section supersede the termination provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of this section are inconsistent with these provisions.

(d) If the President uses the authority of this section to continue prohibitions on transactions involving foreign property interests, he shall report to the Congress every six months on the use of such authority.

SEC. 208.¹⁷ If any provision of this Act is held invalid, the remainder of the Act shall not be affected thereby.

TITLE III—AMENDMENTS TO THE EXPORT ADMINISTRATION ACT OF 1969

AUTHORITY TO REGULATE EXTRATERRITORIAL EXPORTS

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¹⁶ 50 U.S.C. 1706.

¹⁷ 50 U.S.C. 1701 note.